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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/574,562

04/04/2006

Makihiro Otohata

Q94297

1891

23373 7590 05/26/2009  
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EXAMINER

ETHERIDGE, EMPRESS A

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

05/26/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/574,562	<b>Applicant(s)</b> OTOHATA ET AL.	
	<b>Examiner</b> Empress Etheridge	<b>Art Unit</b> 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 8-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-11 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> .                                  | 6) <input type="checkbox"/> Other: ____.                          |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :05/05/2009, 09/18/2008, AND 04/04/2006.

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- I. Claim(s) 1-7, drawn to a film covered battery.
- II. Claim(s) 8-11, drawn to a method of fabricating a film covered battery.

The inventions are distinct, each from the other because of the following reasons:

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the common technical features (film covered battery) of groups I and II do not provide a contribution over the prior art. See JP 2002-319374, which is indicated as an "X" reference in the International Search Report. Therefore, the common features of groups I and II are not special technical features.

During a telephone conversation with Howard Bernstein on May 11, 2009 a provisional election was made without traverse to prosecute the invention of group I, claims 1-7. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-11 are withdrawn from further consideration by the examiner, 37

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CFR 1.142(b), as being drawn to a non-elected invention or dependent upon a non-elected invention.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahiro (JP Pub. No. 2002-319374) ("Takahiro").

Regarding claims 1 and 6, Takahiro teaches a package 20 for sealed cells that consists of metal resin composition films 21 and 22 (film covered battery) (see paragraph [0013]). Takahiro teaches the power generation element 11 possesses a negative electrode facing a positive electrode separated via a separator (see paragraph [0011] and figure 1). Takahiro teaches a package 20 (covering film) consisting of metal

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resin films 21 and 22 and that metal resin films 21 and 22 are comprised of metallic foil 27 (thin metal film layer) and resin layer 29 (heat seal resin) located on the inside of the metallic foil 27 (thin metal film layer) (see figure 4 and paragraph [0015]). Takahiro teaches heating three neighborhoods 20A, 20B, and 20C (joint section) of the piled metal resin compound films 21 and 22 (laminate) which results in the bonding of resin layer 29 of film 21 with resin layer 29 of film 22, thus encapsulating the power generation element 11 (battery element) (see paragraph [0013] and figure 1). Takahiro teaches a metal resin battery package 20 (film covered battery) that is heated on three sides, corresponding to neighborhoods 20A, 20B, and 20C (joint section), to create a sealed type cell for storing a power generation element 11, which is equivalent to applicants' heat sealing a joint section along a peripheral edge (see abstract, paragraphs [0004]; [0013]; and figure 1). Takahiro teaches bending the welded section 55 (see paragraph [0006] and figure 7b), which is the equivalent of applicants' joint section having at least one folded side. Takahiro teaches the neighborhoods 20A and 20B, of the joint section, have notches 30 (folds/grooves) located on each side of the package 20 (see paragraphs [0017-0018] and figures 3 and 5A), which is equivalent applicants joint section formed with at least one fold or a plurality of grooves (folds) in at least one side of joint section. Takahiro teaches the notch part 30 (fold/groove) is in perforated form in the neighborhoods 20A and 20B of the joint section (see paragraphs [0013-0017]). Consequently, the notch part 30 (fold/groove) has a thickness that is smaller than a thickness around the notch part 30 (fold) due to perforations made in the neighborhoods 20A and 20B of the joint section that correspond to the notch part 30

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(see paragraphs [0016-0017] and figures 3 and 5a). Takahiro teaches that the weld cost 25 and 26, that were formed by heating the three neighborhoods 20A, 20B, and 20C of the joint section, are bent along the side of the seat part 23 by the notch part 30(fold) (see paragraph [0013] and figure 1).

Regarding claim 2, Takahiro teaches the notch 30 (fold) is a groove (see paragraphs [0016-0017] and figure 5a).

Regarding claim 3, Takahiro teaches the notch part 30 (fold/groove) is in perforated form in the neighborhoods 20A (left side) and 20B (right side) of the joint section (see paragraphs [0013-0017] and figure 3), which is equivalent to applicants' groove formed in at least one side of joint section.

Regarding claims 4 and 5, Takahiro teaches three neighborhoods 20A, 20B, and 20C (joint section) (see paragraph [0013] and figure 3). Takahiro also teaches that weld costs 25, 26, and 27, created by heating the three neighborhoods (joint section), are located in neighborhoods 20A, 20B and 20C (joint section), respectively. Takahiro teaches the weld costs 25 and 26 are bent along the side of the seat part 23 by the notch part 30 (fold) on the sides corresponding to neighborhoods 20A and 20B (see paragraph [0013] and figure 1), which is equivalent to applicants' plurality of folds formed in joint section such that the joint section is folded along each of the folds.

Regarding claim 7, Takahiro teaches sealed battery 10 (chemical battery) provided with the power generation element 11 (battery element) (see paragraph [0011]).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Empress Etheridge whose telephone number is (571)270-7892. The examiner can normally be reached on Monday- Friday 8:30-5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sines can be reached on (571)272-1263. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. E./  
Examiner, Art Unit 1795

/Brian J. Sines/

Supervisory Patent Examiner, Art Unit 1795